FISCAL NOTE
HB 21 - SB 203

March 20, 2003

SUMMARY OF BILL: Enacts the *Tennessee Predatory Lending Prevention Act, which:*

- Prohibits mortgage brokers from:
  - recommending or encouraging non-payment on an existing loan in connection with the refinancing of a home loan.
  - compensating, coercing or intimidating an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate covered by a home loan.
  - leaving blanks on loan documents to be filed in after the documents are signed by the borrower.
  - requiring or allowing the advance collection of a premium on a single premium basis for any credit insurance or a fee for any debt cancellation or suspension agreement in connection with any home loan.
- Restricts home loans from containing the following:
  - a scheduled payment that is more than twice as large as the average scheduled payment during the first seven years of the loan.
  - a prepayment of more than 3% of the original principal of the note during the first year, 2% in the second year, 1% in the third year or any prepayment penalty beyond the third year.
  - payment terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.
  - a provision that increases the interest rate after default.
  - terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds paid to the borrower.
  - a provision allowing the lender, in its sole discretion, to accelerate the indebtedness.
  - payment to a contractor for home improvements from loan proceeds unless the payment is payable to the borrower, jointly payable to contractor and the borrower, or payable through a third party escrow agent.
  - any provision that constitutes flipping defined as a lender who knowingly refinances a home loan where more than 50% of the prior debt refinanced bears a lower interest rate; it will take a borrower more than 5 years to recoup the prepaid finance charges and closing costs; or, the borrower will lose a benefit of a special mortgage originated by a state or local government, or non-profit organization.
  - charging any fees to modify, renew, extend, amend or defer payment under a high cost home loan.
- Provides that:
  - a lender may not originate a high cost home loan without first receiving certification that the borrower has received counseling on the loan transaction from a counselor approved by HUD, a state housing financing agency or the Tennessee Department of Financial Institutions.
  - the above high cost loan regulations would not apply to a loan purchased by, and in conformity with, the guidelines and procedures of the Federal National Mortgage Association.
  - this bill could be enforced privately through the Consumer Protection Act and must be enforced by the Commissioner of Financial Institutions.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - $119,130 Recurring
$9,058 One-Time
Increase State Revenues - $80,000

Estimate assumes an increase in state expenditures in the Department of Financial Institutions for two Loan Examiners 3's and related expenses to ensure compliance, and an increase in state revenues from 400 additional compliance examinations annually at $200 each.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James A. Davenport, Executive Director